

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

GLENN RUNDLES,

Plaintiff,

v.

SEUN AROWOSAFE,

Defendant.

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Case No. 6:19-CV-14-JDK-JDL

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Plaintiff Glenn Rundles, an inmate proceeding *pro se*, filed the above-styled and numbered civil rights lawsuit pursuant to 42 U.S.C. § 1983. This case was referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636. On September 11, 2019, the Magistrate Judge issued a Report and Recommendation (Docket No. 15), recommending that Defendant's Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(1) be granted-in-part and denied-in-part. Docket No. 15 at 6. Specifically, the Magistrate Judge granted Defendant's motion as to Plaintiff's claims against Defendant in his official capacity because Plaintiff's claims are barred by the Eleventh Amendment *Id.* at 5. The Magistrate Judge denied Defendant's motion as to Plaintiff's claims against Defendant in his individual capacity because Plaintiff pled sufficient allegations against Defendant to state a § 1983 claim. *Id.* at 6. A return receipt indicating delivery to Plaintiff was received by the Clerk on September 23, 2019 (Docket No. 16).

This Court reviews the findings and conclusions of the Magistrate Judge *de novo* only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a *de novo* review, the Court examines the entire record and makes an


independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days). Here, neither party filed objections in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews his legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and Recommendation, the Court adopts the Report and Recommendation of the United States Magistrate Judge (Docket No. 15) as the findings of this Court.

Accordingly, it is hereby **ORDERED** that the Magistrate Judge's Report (Docket No. 15) be **ADOPTED**. It is further

ORDERED that Defendant's Motion to Dismiss (Docket No. 12) be **GRANTED** as to Plaintiff's claims against Officer Arowosafe in his official capacity and **DENIED** as to Plaintiff's claims against Officer Arowosafe in his individual capacity.

So **ORDERED** and **SIGNED** this **3rd** day of **October, 2019**.


JEREMY D. KERNODEE
UNITED STATES DISTRICT JUDGE